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April 14, 2016

VIA ECF

Hon. Ronald L. Ellis

Re: Pinks v. M&T Bank Corporation
Index No. 13-cv-1730-LAK-RLE (S.D.N.Y.)

Dear Judge Ellis:

For the upcoming April 19, 2016 status conference, Defendant M&T Bank Corporation ("M&T") is submitting a proposed scheduling order relating to briefing of class certification issues. Since April 4, 2016, M&T has attempted to confer with Plaintiff regarding a joint scheduling order. Unfortunately, Plaintiff has refused to fix a date certain for the filing of his motion for class certification. Accordingly, M&T has attached its proposed scheduling order for the Court's consideration.

Closure of Class Certification Discovery and Pleadings

As the Court knows, M&T provided its Supplemental Responses to Plaintiff's First Set of Interrogatories Nos. 6 and 8 on December 9, 2015. *See* Dkt. 121 at 12. On March 25, 2016, the Court denied Plaintiff's motion to compel relating to Plaintiff's subsequent December 22, 2015 and January 11, 2016 interrogatories. Dkt. 126. Thus, there are no discovery requests or issues outstanding. M&T's proposed scheduling order, therefore, states provides that the parties have concluded all discovery relating to the claims and defenses pertaining to the Named Plaintiff, Mr. Pinks, and all issues relating to class certification. In addition, no party has proposed the joinder of any additional parties. Accordingly, M&T's proposed order provides that no further joinder of parties shall be permitted.

Proposed Class Certification Briefing Schedule

M&T proposes the following schedule: Plaintiff shall file any motion for class certification, brief in support and supporting evidence on or before April 29, 2016. M&T shall file its opposition brief and evidence in opposition on or before June 30, 2016. Plaintiff shall file any reply brief on or before July 15, 2016. Plaintiff has had more than four months to prepare his motion for class certification. Due to this significant passage of time, M&T's proposed scheduling order reflects that Plaintiff's motion for class certification is filed on or before April 29, 2015. Further, M&T's proposed scheduling order provides M&T with approximately 60 days to file its opposition to Plaintiff's motion for class certification – less than half of the time Plaintiff has been afforded to file his motion.

We look forward to discussing the proposed scheduling order with you during the April 19 conference.

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Respectfully submitted,

/s/ Roy W. Arnold

cc: Counsel of Record